

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

DONNIE THOMAS DAWSON,

Plaintiff,

v.

TOM WINN,

Defendant.

Case No. 19-10388

Honorable Laurie J. Michelson

---

**ORDER DENYING PETITIONER'S MOTION TO STAY [2]  
AND GRANTING LEAVE TO AMEND**

---

Donnie Thomas Dawson thinks he is unconstitutionally confined within the Michigan Department of Corrections. Thus far, the state courts have disagreed, so he has petitioned this Court for a writ of habeas corpus. But he wants to try once more for relief from the state. Dawson says he has an affidavit from a previously unknown eyewitness who can identify someone else as having committed the crime for which he was convicted. (ECF No. 2, PageID.41.) So he asks to stay the adjudication of his petition while he returns to state court to adjudicate this claim.

However, Dawson's current petition is ready for ruling. It raises ineffective-assistance and due-process claims. All were rejected on direct appeal. *See People v. Thomas-Dawson*, No. 332339, 2017 Mich. App. LEXIS 1242, at \*8–14 (Mich. Ct. App. Aug. 3, 2017). And the Michigan Supreme Court denied leave to appeal. *People v. Thomas-Dawson*, 908 N.W.2d 914 (Mich. 2018). Because all of Dawson's claims are exhausted, he does not present a mixed petition that may or may not warrant a stay. *See Rhines v. Weber*, 544 U.S. 269, 276 (2005) So the Court could proceed forward on Dawson's petition, as is.

But in practice, what Dawson wishes to do is add new claims. Therefore, the Court construes Dawson's motion as a request to amend. Accordingly, Dawson has 21 days from when he receives this order to file an amended petition including the claims he wishes to bring before the state court. And once Dawson files his amended petition, the Warden has 14 days to object or otherwise respond to Dawson's motion. Thus, Dawson's motion to stay is DENIED.

SO ORDERED.

s/Laurie J. Michelson  
LAURIE J. MICHELSON  
UNITED STATES DISTRICT JUDGE

Date: April 3, 2019

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing document was served upon counsel of record and/or pro se parties on this date, April 3, 2019, using the Electronic Court Filing system and/or first-class U.S. mail.

s/William Barkholz  
Case Manager